

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION**

DURA-LITE HEAT TRANSFER PRODUCTS
LTD., a Canadian corporation,
GLACIER RADIATOR MANUFACTURING
LTD., a Canadian corporation, and
PHILIP LESAGE, an individual,

Plaintiffs,

v.

ZHEJIANG YINLUN MACHINERY CO., LTD,
a Chinese company, and
YINLUN USA, INC., an Illinois corporation,

Defendants.

Civil Action No. _____

DEMAND FOR JURY TRIAL

COMPLAINT FOR PATENT INFRINGEMENT

Plaintiffs, Dura-Lite Heat Transfer Products Ltd. (“Dura-Lite”), Glacier Radiator Manufacturing Ltd. (“Glacier”), and Philip Lesage (“Lesage”), for their complaint against Defendants Zhejiang Yinlun Machinery Co., Ltd. (“Zhejiang Yinlun”) and Yinlun USA, Inc. (“Yinlun USA”), state as follows:

PARTIES AND NATURE OF ACTION

1. Plaintiff Dura-Lite is a company organized and existing under the laws of Canada, with a principal place of business at 12012 44th Street S.E., Calgary, Alberta T2Z 4A2, Canada. Dura-Lite sells heat exchangers throughout the United States.
2. Plaintiff Glacier is a company organized and existing under the laws of Canada, with a principal place of business at 1773 Con. 3 R.R. 1, Palgrave, Ontario L0N 1P0, Canada.
3. Plaintiff Lesage is a citizen of Canada and resides at 1773 Con. 3 R.R. 1, Palgrave,

Ontario L0N 1P0, Canada.

4. On July 10, 2012, U.S. Patent No. 8,215,015 (the '015 patent) entitled "Method of Forming a Modular Heat Exchanger having a Brazed Core" was duly and legally issued by the United States Patent & Trademark Office. Plaintiff Lesage is a named inventor of the '015 patent and is the owner of all right, title, and interest in the '015 patent. A true copy of the '015 patent is attached as Exhibit A.

5. On October 30, 2012, U.S. Patent No. 8,296,948 (the '948 patent) entitled "Method of Forming a Modular Heat Exchanger having a Brazed Core" was duly and legally issued by the United States Patent & Trademark Office. Plaintiff Lesage is a named inventor of the '948 patent and is the owner of all right, title, and interest in the '948 patent. A true copy of the '948 patent is attached as Exhibit B.

6. Lesage is the owner of the '015 patent and the '948 patent.

7. Glacier is the exclusive licensee, with the right to sub-license, from Lesage under the '015 patent and the '948 patent for the right to make, use, sell, offer to sell, and import heat exchangers in the United States.

8. Dura-Lite is the exclusive sub-licensee from Glacier under the '015 patent and the '948 patent for the right to make, use, sell, offer to sell, and import aluminum heat exchangers, including aluminum charged air coolers, in the United States.

9. Defendant Zhejiang Yinlun Machinery Co., Ltd. is a Chinese company, with a principal place of business at Communications & Transportation Machinery Industrial Park, Tiantai County, Zhejiang 317200, China. Defendant Zhejiang Yinlun manufactures automotive products in China that are shipped to customers in the United States.

10. Defendant Yinlun USA, Inc., upon information and belief, is a corporation

organized under the laws of the State of Illinois and having a place of business at 77 Commerce Drive, Morton, Illinois 61550. Upon information and belief Yinlun USA is a related entity and wholly owned subsidiary of Zhejiang Yinlun. Upon information and belief, Yinlun USA purchases heat exchanger products from Zhejiang Yinlun and resells them in the United States, including within this district.

11. Upon information and belief, Zhejiang Yinlun manufactures heat exchanger products including an aluminum charge air cooler that is sold to customers in the United States, including within this district, who sell the charge air cooler product using the name Ultra-Seal® (“Infringing Product”).

12. Upon information and belief, Defendants Zhejiang Yinlun and Yinlun USA sell the aluminum charge air cooler Infringing Product in the United States to at least Thermal Solutions Manufacturing, Inc. a Delaware corporation with a principal place of business at 15 Century Blvd., Suite 102, Nashville, TN 37214, and Vista-Pro Automotive LLC, a Delaware limited liability corporation with a principal place of business at 22 Century Blvd., Suite 410, Nashville, TN 37214. Thermal Solutions Manufacturing, Inc. and Vista-Pro Automotive LLC resell the aluminum charge air cooler Infringing Product.

13. The basis of this Complaint arises out of Defendants Zhejiang Yinlun’s and Yinlun USA’s unlawful and infringing sales, offers for sale, and/or importation of Infringing Product in the United States.

JURISDICTION AND VENUE

14. This is an action for patent infringement arising under the patent laws of the United States of America, Title 35 of the United States Code. This Court has subject matter jurisdiction over the matters pled herein under 28 U.S.C. §§ 1331 and 1338(a) in that this is a civil action

arising out of the patent laws of the United States of America.

15. As a result of Defendants Zhejiang Yinlun's and Yinlun USA's use, sale, offer for sale, and/or importation of at least the aluminum charge air cooler Infringing Product to at least Thermal Solutions Manufacturing, Inc. and Vista-Pro Automotive LLC in the State of Tennessee and this judicial district, Defendants Zhejiang Yinlun and Yinlun USA regularly and deliberately engaged in, and continue to engage in, activities that result in using, selling, offering for sale, and/or importing Infringing Products in and/or into the State of Tennessee and this judicial district. These activities violate the patent rights held by Plaintiffs in the '015 patent and the '948 patent. This Court has personal jurisdiction over Defendants Zhejiang Yinlun and Yinlun USA because, among other things, each Defendants Zhejiang Yinlun and Yinlun USA conduct business in the State of Tennessee and in this judicial district and thus enjoy the privileges and protections of Tennessee law.

16. Venue is proper in the Middle District of Tennessee pursuant to 28 U.S.C. §§ 1391(b), (c), and (d) and 28 U.S.C. § 1400(b).

COUNT I – PATENT INFRINGEMENT

17. Plaintiffs Dura-Lite, Glacier, and Lesage incorporate by reference all of the allegations from paragraphs 1 through 16, above, as if fully set forth herein.

18. Based upon the acts complained of herein, Defendants Zhejiang Yinlun and Yinlun USA have directly infringed the '015 patent in violation of 35 U.S.C. § 271(g) by importing into the U.S., and/or offering to sell, selling, and/or using in the U.S., a charge air cooler products including heat exchangers made by a process patented in the '015 patent. These heat exchangers include at least the Infringing Products sold as the Ultra-Seal[®] aluminum charge air cooler.

19. As a result of Zhejiang Yinlun's and Yinlun USA's importation into this district

and/or offer for sale, sale and/or use in this district, Plaintiff Dura-Lite has been damaged due to lost sales of aluminum charged air coolers. Plaintiffs are entitled to at least lost profits under 35 U.S.C. § 284 adequate to compensate for the infringing products imported into the U.S. and/or sold, offered for sale, and/or used in the U.S.

20. As a result of Zhejiang Yinlun's and Yinlun USA's infringement, the Plaintiffs are entitled to temporary and permanent injunctive relief under 35 U.S.C. § 283.

21. Upon information and belief, Zhejiang Yinlun has actual knowledge of the '015 patent and has elected to disregard the Plaintiffs' patent rights by importing, selling, offering for sale, and/or using infringing products, such infringement being willful, entitling the Plaintiffs to recover treble damages and attorneys' fees pursuant to 35 U.S.C. §§ 284 and 285.

COUNT II – PATENT INFRINGEMENT

22. Plaintiffs Dura-Lite Heat, Glacier, and Lesage incorporate by reference all of the allegations from paragraphs 1 through 21, above, as if fully set forth herein.

23. Based upon the acts complained of herein, Defendants Zhejiang Yinlun and Yinlun USA have directly infringed the '948 patent in violation of 35 U.S.C. § 271(g) by importing into the U.S., and/or offering to sell, selling, and/or using in the U.S., heat exchangers made by a process patented in the '948 patent. These heat exchangers include at least those sold as the Ultra-Seal® aluminum charge air cooler.

24. As a result of Zhejiang Yinlun's and Yinlun USA's importation into this district and/or offer for sale, sale and/or use in this district, Dura-Lite has been damaged due to lost sales of aluminum charged air coolers. Plaintiffs are entitled to at least lost profits under 35 U.S.C. § 284 adequate to compensate for the infringing products imported into the U.S. and/or sold, offered for sale, and/or used in the U.S.

25. As a result of Zhejiang Yinlun's and Yinlun USA's infringement, the Plaintiffs are entitled to temporary and permanent injunctive relief under 35 U.S.C. § 283.

26. Upon information and belief, Zhejiang Yinlun has actual knowledge of the '948 patent and has elected to disregard the Plaintiffs' patent rights by importing, selling, offering for sale, and/or using infringing products, such infringement being willful, entitling the Plaintiffs to recover treble damages and attorneys' fees pursuant to 35 U.S.C. §§ 284 and 285.

RELIEF REQUESTED

WHEREFORE, Plaintiffs, Dura-Lite, Glacier, and Lesage, request a judgment in their favor and against Defendants Zhejiang Yinlun and Yinlun USA and request that this Court:

- A. Order, adjudge, and decree that the '015 patent and the '948 patent are valid and enforceable;
- B. Order, adjudge, and decree that Defendants' importation of the Infringing Products infringes the Plaintiffs' rights in the '015 patent and the '948 patent;
- C. Issue a preliminary and a permanent injunction prohibiting Defendants, and all of its representatives, agents, servants, employees, related companies, successors and assigns, and all others in privity or acting in concert with it, from infringing any claim of the '015 patent and the '948 patent, including, but not limited to, further infringements by using, selling, offering to sell, and/or importing any heat exchanger that infringes any claim of the '015 patent and the '948 patent;
- D. Award damages for infringement of the '015 patent and the '948 patent;
- E. Declare this case as exceptional within the meaning of 35 U.S.C. § 285 and award Plaintiffs' attorneys' fees, costs, and expenses that it incurs in prosecuting this action; and

F. Provide any further relief as this Court may deem equitable and proper.

JURY DEMAND

The Plaintiffs demand trial by jury of all issues triable to a jury.

Dated: November 7, 2014

Respectfully submitted,

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